

Farm Service Agency, USDA

§ 740.2

740.78 Conditions and procedure for appeal of grades or other class.

MISCELLANEOUS

740.79 Publications.

740.80 Information of violations.

740.81 Procedure in hearings.

740.82 One document and one license to cover several products.

740.83 Bond, assets, and fees for combination warehouse.

740.84 Amendments.

AUTHORITY: 7 U.S.C. 241 *et seq.*

SOURCE: 41 FR 31163, July 27, 1976, unless otherwise noted. Redesignated at 50 FR 1814, Jan. 14, 1985.

EDITORIAL NOTE: Nomenclature changes to part 740 appear at 62 FR 33540, June 20, 1997.

DEFINITIONS

§ 740.1 Meaning of words.

Words used in this part in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

§ 740.2 Terms defined.

For the purposes of the regulations in this part, unless the context otherwise require, the following terms shall be construed, respectively, to mean:

(a) *Nuts*. Unshelled nuts of the following kinds: American-grown peanuts, pecans, filberts, and English or Persian walnuts; and shelled American-grown peanuts.

(b) *The Act*. The United States Warehouse Act, approved August 11, 1916 (39 Stat. 486; (7 U.S.C. 241-273)) as amended.

(c) *Person*. An individual, corporation, partnership, or two or more persons having a joint or common interest.

(d) *Department*. The United States Department of Agriculture.

(e) *Secretary*. The Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(f) *Service*. The Farm Service Agency of the U.S. Department of Agriculture.

(g) *Administrator*. The Administrator of the Service or any other officer or employee of that Service to whom authority has heretofore lawfully been

delegated, or to whom authority may hereafter lawfully be delegated, to act in his stead.

(h) *Regulations*. Rules and regulations made under the Act by the Secretary.

(i) *Warehouse*. Unless the context otherwise clearly indicates, any building, structure, or other protected enclosure licensed or to be licensed under the Act, in which nuts are or may be stored for interstate or foreign commerce, or, if located within any place under the exclusive jurisdiction of the United States, in which nuts are or may be stored.

(j) *Warehouseman*. Any person lawfully engaged in the business of storing nuts, who holds an effective warehouseman's license under the Act, or who has applied for such a license.

(k) *License*. A license issued under the Act by the Secretary.

(l) *Warehouseman's bond*. The bond required by the Act to be given by a warehouseman.

(m) *Licensed inspector*. (1) A person licensed under provisions of section 11 of the United States Warehouse Act (7 U.S.C. 241 *et seq.*), or (2) a Federal employee authorized under provisions of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*), or (3) a person licensed under the provisions of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*) to inspect, grade, and certificate the grade or other class and/or condition of nuts stored or to be stored in a warehouse licensed under the U.S. Warehouse Act (the terms "persons duly licensed to inspect" or "licensed inspector" shall be defined accordingly).

(n) *Licensed weigher*. A person licensed under the provisions of section 11 of the United States Warehouse Act (7 U.S.C. 241 *et seq.*), to weigh and certificate the weight of nuts stored or to be stored in a warehouse licensed under the U.S. Warehouse Act (the terms "persons duly licensed to weigh" or "licensed weigher" shall be defined accordingly).

(o) *Receipt*. A licensed warehouse receipt issued under the Act.

(p) *Package*. A bag, sack, box, or other container.

§ 740.3

(q) *Ton.* (Short ton) 2,000 pounds.

[41 FR 31163, July 27, 1976, as amended at 42 FR 26646, May 25, 1977. Redesignated and amended at 50 FR 1814, Jan. 14, 1985]

WAREHOUSE LICENSES

§ 740.3 Application form.

Applications for licenses and for amendments of licenses under the Act shall be made to the Administrator upon prescribed forms furnished by the Service, shall be in English, shall truly state the information therein contained, and shall be signed by the applicant. The applicant shall at any time furnish such additional information as the Administrator shall find to be necessary to the consideration of his application.

§ 740.4 All facilities to be licensed or exempted.

All facilities within the same city or town used for the storage of nuts by an applicant for a warehouse license must qualify for a license and be licensed under the Act if the applicant is to be licensed to operate as a nut warehouseman in such city or town, unless the facilities which are not to be covered by a license are exempted by the Administrator upon a finding that, due to the exercise of adequate controls by some independent agency over the operation of the nonfederally licensed facilities, there would be no likelihood of the interchange, substitution, or commingling of nuts stored in such facilities with nuts stored in the federally licensed facilities. If all such facilities do not qualify for a license or for an exemption under this section, the applicant shall not be licensed under the Act as a nut warehouseman in the city or town in which the facilities in question are located. Each applicant for a nut warehouse license must apply for a license covering all facilities operated by him for the storage of nuts within the same city or town or for exemption as provided in this section. If a licensed nut warehouseman acquires any additional nut storage facilities within the same city or town in which his licensed warehouse is located he shall file promptly an application for a license or an exemption of the additional facilities. No nut storage facility ac-

7 CFR Ch. VII (1-1-00 Edition)

quired by a licensed nut warehouseman, subsequent to the issuance of his license, in the same city or town as his licensed facilities, shall be used for the storage of nuts until it qualifies for license and is licensed or is exempted as provided in this section. If any one of the licensed nut storage facilities operated by a warehouseman in the same city or town becomes ineligible for a license at any time for any reason, it shall not thereafter be used for the storage of nuts, until the condition making it ineligible is removed or an exemption is granted as provided in this section. The use for the storage of nuts by a licensed warehouseman of a facility which is in the same city or town as his licensed facilities and is neither licensed nor exempted, or other violation of the provisions of this section, shall be cause for suspension or revocation of any license issued to the warehouseman for the storage of nuts.

§ 740.5 Scales; bin and compartment numbers.

(a) Each warehouse must be equipped with suitable scales in good order, and so arranged that all nuts, whether for storage or for nonstorage purposes, can be weighed in and out of the warehouse. The scales in any warehouse shall be subject to examination by representatives of the Department and to disapproval by the Administrator. If he disapproves any weighing apparatus, it shall not thereafter be used in ascertaining the weight of nuts for the purposes of this Act, until such disapproval be withdrawn.

(b) Both bulk bins and compartments for sacked nuts of all warehouses licensed under the Act shall be identified by means of clearly discernible numbers securely affixed thereto. The series of numbers to be used shall be approved by the Service. Bulk bins shall be numbered so as to be easily identified at the openings on top and also on or near the outlets. Compartments shall be numbered in such a manner as to clearly show the space covered by each number.

§ 740.6 Net assets.

(a) Each warehouseman conducting a warehouse licensed, or for which application for a license has been made